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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,841	12/08/2003	Kris Edward Hansen	005230.00007	9293

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EXAMINER

LE, TAN

ART UNIT PAPER NUMBER

3632

DATE MAILED: 05/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/728,841

Applicant(s)

HANSEN, KRIS EDWARD

Examiner

Tan Le

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,8-10 and 18-30 is/are pending in the application.
- 4a) Of the above claim(s) 1,8-10,23,26 and 30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-22,24,25 and 27-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This is the third office action for serial number 10/728,841. This application contains 17 claims numbered 1, 8-10 and 18-30. Claims 2-7, 11-17 and 31-44 were previously canceled. Claims 1, 8-10, 23, 26 and 30 were previously withdrawn.

Withdrawal of Finality

2. Applicant's request for reconsideration of the allowability of claims 24-25 and 29 of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. A finality of the last office action is also withdrawn due to new arts were found, a new ground of rejection based on Pate et al., Kaiser and Pietschmann follow.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

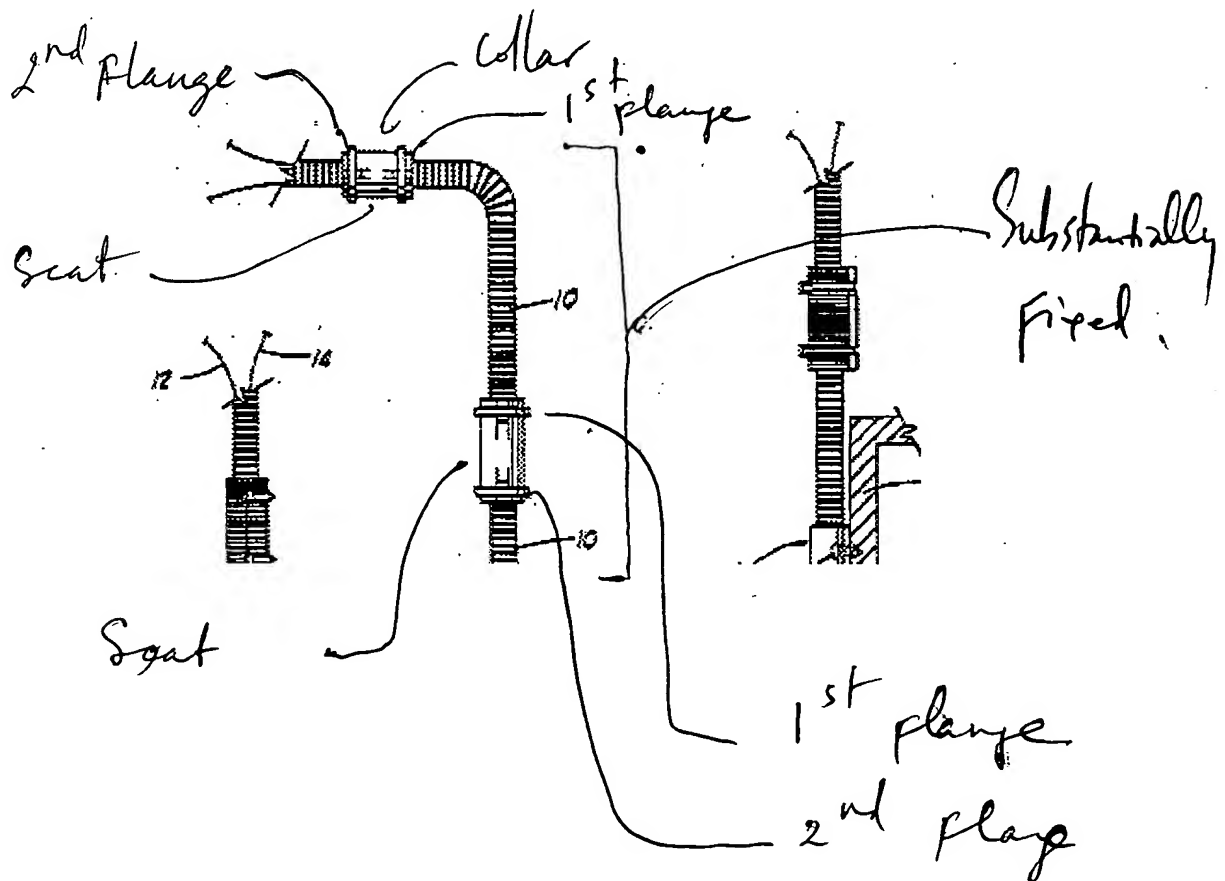
Claims 18-22, 27 and 28 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, Applicant is claiming that the elongated body having a *substantially fixed*." as recited in claims 18 and 28, but does not describe in the specification as original filed.

Claim Rejections - 35 USC § 102

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 18-22 and 27-28 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 4,248,459 to Pate et al.

Pate et al. discloses a conduit system comprising all the limitations as recited in claims 18-22 and 27-28 as evidently shown on Figs. 1, 4-7, or 8-11 for example. See marked-up copy below:



Claims 24-25 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 4,259,066 to Pietschmann.

Pietschmann teaches a guiding and support member (10) capable of maintaining a flexible member, the guiding and supporting member comprising an elongated body (34) including a sweep having a first end, a second end and at least one roller (60) (Figs. 4-5) positioned between the first and second ends, the first ends comprising a collar (30) (Fig. 2) having a first circumferential flange, a second circumferential flange and a seat (no numeral) extending between the flanges.

Claims 24-25 and 28-29 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,577,772 to Kaiser.

Kaiser teaches a guiding and support member (Figs. 1-3)) capable of maintaining a flexible member, the guiding and supporting member comprising an elongated body (3, 6) including a sweep having a first end, a second end and at least one roller (5, 15) positioned between the first and second ends, each including a collar (see marked -up copy) having a first circumferential flange, a second circumferential flange and a seat (no numeral) extending between the flanges.



Response to Arguments

5. Applicant's arguments filed 03/28/05 have been fully considered, but they are not persuasive in view of art of record.

Applicant has further amended independent claims 18 and 28 and pointed to alleged difference between the prior art and his invention based upon amendment

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introduced into claims. However, these independent claims and along with other dependent claims still stand rejected as being anticipated by Pate et al.

Particularly, Applicant has further introduced the word "fixed" or "substantially fixed" as recited in claims 18 and 28. However, the word "substantially fixed" is word of relative meaning; it can have many shades of meaning, from generally, absolutely unchangeable to generally, relatively unchangeable. See *Palmer V. McLamore, Minneman & Dunn (CCPA)* 105 USPQ 275. The conduits of Pate can be bent to a needed angle, but the terms "flexibility" and/or "rigidity" and/or "fixed" are/is all relative terms, particularly since virtually anything will flex if enough pressure is applied to it. See *Fredman v. Harris-Hub Co., Inc.* 163 USPQ 397. In view of the above reason, the examiner respectfully submits that Pate et al. clearly shows all the limitations of claims 18-22 and 27-28 as pointed out in the office action.

Conclusion.

6. THIS ACTION IS MADE Non-FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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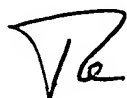
the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Le whose telephone number is (571) 272-6818.


The examiner can normally be reached on Mon. through Fri. from 9:00 AM-6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on (571) 272-6815. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tan Le
Patent examiner
April 29, 2005.



LESLIE A. BRAUN
SUPERVISORY PATENT EXAMINER